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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,765	10/30/2003	Alessandro De Matteis	150741.00001	8891
25207 7590 06/09/2008 POWELL GOLDSTEIN LLP ONE ATLANTIC CENTER FOURTEENTH FLOOR 1201 WEST PEACHTREE STREET NW ATLANTA, GA 30309-3488				
EXAMINER				
ADAMS, GREGORY W				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/697,765

**Applicant(s)**

MATTEIS, ALESSANDRO DE

**Examiner**

GREGORY W. ADAMS

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-4 and 10 is/are allowed.
- 6) ☒ Claim(s) 1, 5-9, 11 and 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6-8 & 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Schmidt, V et al. (US 6,322,315) (previously cited).

With respect to claim 6, Schmidt, V et al. disclose means 22, 24 for feeding a stack being formed with a stream of interfolded sheets, movable table 36, first 38 and second 40 separators moving laterally into stack, sheet stretching board 50, and means (C8/L8-50) for moving a sheet stretching board under a stack for all a stack width to provisionally support a stack and for stretching a wing for all a stack width with an end portion 70 of a wing eventually exceeding a sheet stretching board 50.

With respect to claims 7-8, Schmidt, V et al. disclose an element 52 comprising a blow of air 52 moving from a direction opposite to said sheet stretching board, with respect to the processed stack.

With respect to claim 11, Schmidt, V et al. disclose a table 36 is located on a slide 76, guide 38 and actuator 38.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 5 & 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt, V et al. in view of Hauschild et al. (US 5,730,695) (previously cited).

With respect to claims 1 & 12, Schmidt, V et al. disclose:

- forming of a stack of interfolded sheets 30 piling up on a table 36 located underneath;
- separating (C8/L1-13) two successive interfolded sheets once achieved a predetermined height of a forming stack, thus defining a completed stack 30 and a forming stack being formed 58 (FIGS. 2-5);
- separating (C7/L140-47) occurring by laterally introducing first 38 and second 40 separators into a stack (indicated generally as 30) being formed from opposite sides with respect to a stack same for separating a stack 30 located underneath and for leaving at least one wing 70 of sheet hanging free between two separators;

- moving away a completed 30 stack of sheets from a table and leaving it on a conveyor belt or an outlet plane 68 (C9/L16-45; FIGS. 6-7);
- moving a sheet stretching board 50, suitable for provisionally supporting (C8/L65-68) a stack and stretching a wing 70, with a portion of wing 70 of sheet exceeding a sheet stretching board 50;
- withdrawing (C8/L24-26) first 38 and second 40 separators up to reaching a position external to a stack being formed (FIGS. 4-5); and
- moving back a table 10 and withdrawing a sheet stretching board 50, with a portion of wing 70 that remains between a stack 58 and a table 36 (FIG. 11).

Hauschild et al. disclose a method for separating a stack of sheets using separators including method steps-

c1) a stack having a width (defined by edges 20, 21 in FIG.5) and two separators 11, 12 being introduced in a stack 2 (e.g. a completed stack, the top thereof) for about half of a stack width bearing together a stack 2' being formed (C7/L7-40; FIGS. 4-7); and

c2) two separators 11, 12 leaving a wing (FIG. 7: 3') of sheet hanging free between two separators 11, 12, a wing 3' hanging at about half of a width;

It is noted that Applicants Oct. 16, 2006 arguments concede that Hauschild discloses separating fingers 11, 12. See Pages 9, first paragraph. Hauschild teaches improving centering and orienting support of a stack of instable or fragile thin and/or soft interfolded web articles. C1/L48-65. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method

of Schmidt, V et al. to include Hauschild's separation steps to stack interfolded instable or fragile webbed articles.

With respect to claim 5, Schmidt, V et al. that where previously to a step of moving away a completed stack on a conveyor belt 68, or in the outlet plane, a blow of air 52 is provided for moving a possible last sheet that has remained in a vertical position bringing it to a horizontal position.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt, V et al. and in view of De Matteis et al. (US 6,228,014) (previously cited).

With respect to claim 9, Schmidt, V et al. discloses pivoting (C7/L39-45) first 38 and second 40 separators and does not disclose a connecting rod, motor, cam. De Matteis et al. discloses first and second separators on supports 40a, 40b, operatively coupled to a connecting rod 43 operated by a motor (C6/L1-9); a connecting rod 33 rotating by means of a cam 45 improves on the width of the interfolded web and consequently the stack length. C2/L30-40. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Schmidt, V et al. to include a connecting rod, motor and cam, as per the teachings of De Matteis et al., to interfold larger webs.

***Allowable Subject Matter***

Claims 2-4 & 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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**Double Patenting**

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-12 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-10 of copending Application No. 11/229,877. Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant application requires inserting separators half-way (claims 1 (method), claim 6 (apparatus)). However, the specification clearly discloses that those are merely accomplished by means which extend from either side half-way.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Response to Arguments***

Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection. Applicants arguments with respect to claims 2-4 & 10 are persuasive. With respect to claim 1 Schmidt's board 50 supports the stack inasmuch as it allows a newly building stack to be formed thereon until table 36 can return. FIG. 1A clearly discloses separator fingers 38, 40 withdrawn. Applicants arguments with respect to claim 1 do not transfer to claim 6 because claim 6 is an apparatus claim with wholly different limitations and interpretations from either the Examiner's perspective or Applicants. Applicant did not supply arguments with respect to claim 12. Thus, it is concluded that claim 12 is disclosed by the cited prior art. With respect to claim 9, De Matteis was not cited as disclosing separation fingers that support, but merely for the structure which moves fingers, e.g. connecting rod, motor and cam. As De Matteis fingers and Schmidt's separators are fingers a skilled artisan would know to combine well known moving means for the added benefit of improving on stackable web width. De Matteis (C2/L30-40) As Schmidt's separators move it would be a simple matter to combine De Matteis' movement means with Schmidt's already moving separators.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within



TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GREGORY W. ADAMS whose telephone number is (571)272-8101. The examiner can normally be reached on M-Th, 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on (571) 272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Saúl J. Rodríguez/

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Supervisory Patent Examiner, Art  
Unit 3652

/G. W. A./

Examiner, Art Unit 3652